

MINUTES OF THE MEETING OF THE BOARD OF MASSAGE THERAPY

August 19, 2016

These minutes were
approved by the Board on
October 21, 2016

1. ROLL CALL

The meeting of the Board of Massage Therapy was called to order by Hupka, Chairperson, at 9:30 a.m. in Lower Level Conference Room A, State Office Building, 301 Centennial Mall South, Lincoln, Nebraska. Copies of the agenda were mailed to the Board members and other interested parties in accordance with the Open Meetings Law.

The following members answered roll call:

<u>Members Present:</u>	Kim Adams Johnson	-	Vice-Chair
	Michelle Helaney	-	Member
	Keli Hupka	-	Chairperson
	Brian Allison	-	Secretary
<u>Others Present:</u>			
Ami Huff, Assistant Attorney General			
Kris Chiles, Program Manager, Licensure Unit			
Nancy Herdman, Health Licensing Coordinator, Licensure Unit			
Russ Fosler, Administrator, Investigations			
Dennis Scott, Investigator			
Mark Meyerson, Investigator			
Anna Harrison, Compliance Monitor			

2. ADOPTION OF AGENDA

MOTION: Adams Johnson moved, seconded by Helaney, to adopt the agenda. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

3. APPROVAL OF MINUTES (5-27-16)

MOTION: Adams Johnson moved, seconded by Allison, to approve the minutes of 5-27-16. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

4. INVESTIGATIVE REPORTS & OTHER CONFIDENTIAL INFORMATION – CLOSED SESSION

MOTION: Helaney moved, seconded by Adams Johnson, to enter into closed session at 9:32 a.m. to hear discussions of an investigational/confidential nature for the prevention of needless injury to the reputation of the individuals. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

10:02 a.m.	-	Scott departed meeting
10:30 a.m.	-	Adams Johnson and Hupka departed meeting (conflict)
10:04 a.m.	-	Scott entered meeting
10:10 a.m.	-	Adams Johnson and Hupka entered meeting
10:12 a.m.	-	Fosler, Scott and Meyerson departed meeting
10:40 a.m.	-	Harrison departed meeting

MOTION: Adams Johnson moved, seconded by Allison, to enter into open session at 11:04 a.m. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

11:04 a.m. - Break
11:13 a.m. - Meeting resumed, 1 public person entered meeting
Teresa Hampton, Department attorney, entered meeting

5. REVIEW AND RECOMMENDATIONS – OPEN SESSION

- Applications, Reinstatements, Out-of-State Training Programs

Jenny Lin – Reinstate Massage Therapy License

MOTION: Adams Johnson moved, seconded by Helaney, to recommend denial of the reinstatement of the license based on unlicensed practice. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

Fengbao Zhang – Massage Therapist Applicant

MOTION: Allison moved, seconded by Adams Johnson, to recommend deferring the application and request additional information. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

Amy Hilger – Massage Therapist Applicant

MOTION: Adams Johnson moved, seconded by Helaney, to recommend offering a massage therapist license with 6 month probation to include the standard terms and conditions and the following: quarterly employer reports, no solo practice, pass jurisprudence examination within first 90 days. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

Complete Physical Therapy – Massage Therapy Establishment Applicant

MOTION: Adams Johnson moved, seconded by Hupka, to recommend offering a massage therapy establishment license with a 6 month probation to include the standard terms and conditions and the following: owner pass jurisprudence examination within 90 days of establishment licensing, owner complete 2 hours of Board approved training on business ethics. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

Chiles said there was one additional application for an establishment and the owner was planning to attend at 11:30 a.m. so she suggested moving to the other items on the agenda.

6. UNFINISHED BUSINESS

a. Consumer Brochure Revisions and Next Step

Chiles stated the Federation of State Massage Therapy Boards helped with this and that Adams Johnson and Chiles had worked on the revisions. Allison stated that under “Human Trafficking, that “in to” should be “into.” Also instead of “Have you seen of have you. . .,” it should read “Have you seen or have you...” Chiles stated she would do the cleanup and then the draft would go to the Department’s publication area for review. Chiles stated she would e-mail the final brochure to the Board members prior to publication.

Adams Johnson commented that she had not received any input from other Board members regarding revisions to the brochure when they were asked to provide feedback. Hupka suggested that whenever Board members were asked to respond to a request, including application reviews, they be given 48 hours to respond. Chiles commented that the Department usually gives two weeks to respond to application reviews but the Department would try the 48 hours and see how it works.

7. NEW BUSINESS

a. Overview of the Process Improvement Projects in the Licensure Unit

Chiles stated the new leadership is looking at how to improve processes and run government more like a business. Chiles commented that the process improvement began with the nursing area. They started with applications where it was noted applications were touched 5 to 10 times during processing. The steps were cut in half. Also, the Department obtained feedback from nurses, schools and employers regarding the applications. The applications were simplified based on the feedback received resulting in the receipt of less deficient initial applications. Chiles stated she visited schools and spoke with students about the licensing process which she felt was helpful. She commented that the nursing section implemented an automated phone system which resulted in the caller getting to where they needed to be which freed up staff time. Chiles stated there was a staff huddle every morning to determine what work needed to be done and that employees worked together as a team to get the work done.

The public person said that visiting the schools was a good thing.

Chiles stated that process improvement was now happening with mental health practice, psychology and alcohol and drug counseling and that cosmetology and massage therapy would be next. She asked the members to let her know if they wanted the Department to look at anything specific during the process improvement project.

11:32 p.m. - Second public person entered meeting

The meeting moved back to agenda item 5.

5. REVIEW AND RECOMMENDATIONS – OPEN SESSION

- Applications, Reinstatements, Out-of-State Training Programs

An application had been received for a mobile massage therapy establishment. Adams Johnson commented that mobile massage therapy establishments had been discussed at their last meeting and they had determined that a mobile establishment did not meet 172 NAC 82, item 14 (a) or 172 NAC 82-004.01, item 1. The members further looked at these two areas of the regulations in relationship to the application submitted. They first looked at 172 NAC 82, item 14. A. Helaney wondered if providing massage therapy in a client's driveway was going to their home. She commented a mobile massage therapy establishment was different from going to an event and doing a chair massage. Members discussed that offering mobile massage somewhat fit a massage therapy establishment but not enough to meet the definition of a massage therapy establishment. Hupka commented it was not like you take down your table, etc. and take it to the location of the client. Chiles commented that the RV would be driven to the location and the customer had to go into the RV and the official structure of the RV would remain the same.

The members then discussed 82-004.01, item 1 where the regulations say that a "massage therapy establishment must have a clearly identifiable location." The second public person (assumed to be applicant) commented that the location of the RV every day would be posted on e-mail and the doors of the RV would be marked. Hupka commented that an establishment was a fixed spot and both Helaney and Adams Johnson commented that a physical location or building does not move. The members questioned how the inspector would find the mobile establishment to conduct random inspections. Also discussed was what if there were a cancellation or no one showed up for the day, would the RV stay at the location for the entire day even if there were no clients. The second public person (assumed applicant) responded that where the schedule said the RV would be for the day that it would be there for the day. Public person said if he had a cancellation, he would not fill the spot. He commented he would work with the shopping center, etc. ahead of time to get permission to be there. Hampton commented that going to someone's home would be a concern. The second public person (assumed applicant) responded that he would not be going to someone's home.

Adams Johnson commented that she felt the mobile establishment did not fit enough under the current regulations to qualify for an establishment license.

Magical Touch Mobil Massage

MOTION: Adams Johnson moved, seconded by Hupka, to recommend denial of a Massage Therapy Establishment license based on not meeting 172 NAC 82, item 14. a. and 172 NAC 82-004.01, item 1. A roll call vote was taken. Voting aye: Adams Johnson, Allison, Helaney, Hupka (4). Voting nay: None (0). Absent: None (0). Motion carried.

12:15 p.m. - Second public person departed meeting

8. UPDATES AND REPORTS

a. Nebraska Chapter AMTA

There was no information to report.

b. Federation of State Massage Therapy Boards

Adams Johnson reported the annual meeting would be in October and there were resolutions that would be discussed. She stated only 10 states regulate massage therapy establishments and Tennessee regulates mobile massage therapy establishments by treating them the same as any other establishment. Chiles commented that providing mobile services was becoming an issue of discussion for other professions and that legislation might be proposed in the future.

c. Statistics: Examination / Licensing / Administrative Penalties / Renewals / Disciplinary and Non-Disciplinary Information / School Report

Chiles reported the following examination results since January 1, 2016:

MBLEx – 29 pass
Jurisprudence, probation – 9 pass
Jurisprudence, reciprocity – 44 pass, 3 fail

Chiles circulated the Compliance Listing Report and reminded members that licensing actions are e-mailed to the members.

Chiles reported the following statistics:

Massage Therapist – 1395
Massage Therapist Establishment – 545
Massage Therapy School – 7
Temporary Massage Therapist – 1

Chiles asked the public person, whom she referred to as Steve and who appeared to be from a school, if there was anything he wanted to address with the Board. He responded that there was nothing specific he wanted to address. He stated having a representative from the Department visit the school was a good idea.

9. Adjournment

There being no further business, Hupka declared the meeting of the Board of Massage Therapy adjourned at 12:32 p.m.

Respectfully Submitted,

Brian Allison, Secretary
Board of Massage Therapy

Minutes completed by Nancy Herdman, Health Licensing Coordinator